



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**CIVIL APPEAL NO. 528 OF 2013**

**STEPHEN NGANGA KAHIGA.....APPELLANT**

**VERSUS**

**THE HONOURABLE ATTORNEY GENERAL...RESPONDENT**

*(Appeal from the Judgment of Honourable T.W. Wamae (Mrs.) Senior Resident Magistrate*

*at Nairobi delivered on 26<sup>th</sup> August 2004 in CMCC No. 10380 of 2013)*

**RULING**

The matter herein was listed for notice to show cause on the 27<sup>th</sup> day of July, 2018. In response to the notice, counsel for the plaintiff filed an affidavit on the 19<sup>th</sup> day of July 2018 sworn by Zacharia Nganga Ngigi advocate, who is in conduct of the Appeal on behalf of the Appellant.

In the said affidavit, he avers that he has been following up the matter and on the 26<sup>th</sup> July 2018, he wrote to the Deputy Registrar enquiring whether the Appeal had been admitted. That vide a letter dated 19<sup>th</sup> February, 2018 he had written to the Deputy Registrar requesting for the file to be placed before a Judge for directions only to be told that the Appeal had not yet been admitted.

He avers that the Appellant has been ready and willing to prosecute the same as he has already filed a Record of Appeal.

The court has considered the affidavit and the reasons given for the delay in prosecuting the Appeal. Counsel for the Appellant has given a plausible reason why the Appeal has not been prosecuted. It is in the interest of justice that the Appellant be allowed to prosecute the same.

This being an old matter, the same should be prosecuted within 90 days failing which it shall stand dismissed.

**Dated, Signed and Delivered at Nairobi this 4<sup>th</sup> day of October, 2018**

.....

**L. NJUGUNA**

**JUDGE**

In the presence of:

.....**For the Appellant**

..... **For the Respondent**